S.B. CRIMINAL MISC. PETITION NO.580/2007
(Chhotu Puri Vs. State of Raj.)

Date of order : : 24.05.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.S.S.Shaktawat, for the petitioner.
Mr.Ashok Upadhyay, PP for the State.

By this criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 3.4.2007 passed by Additional Sessions Judge No. 2, Chittorgarh whereby criminal revision petition filed by the petitioner was rejected. By the said revision petition, the petitioner challenged the order dated 6.10.2006 passed by learned Additional Chief Judicial Magistrate, Kapasan whereby he has dismissed the application of the petitioner filed under Section 457 Cr.P.C. for releasing the vehicle (Moped) bearing No.RJ-09 4M 6179 on Supardginama.

Learned counsel for the petitioner states that the vehicle in question was seized by SHO, Police Station, Kapasan, District-Chittorgarh in connection with FIR No.280/2006 for offence under Section 41 and 42 of the Forest Act. It is further stated that the present petitioner is the registered owner of the

said vehicle. The said offence has not been committed with the knowledge of the petitioner. It was seized from the possession of Babu who was transporting the forest produce. Both the courts below have not considered the matter properly and dismissed the application of the petitioner. He further states that there is no necessity of keeping the vehicle under seizure continuously. The vehicle is lying in the police station and it shall be ruined there. Therefore, he prays that the said vehicle may be given to the petitioner on Supardginama.

Learned Public Prosecutor has supported the orders passed by both the courts below and stated that learned Magistrate has relied upon the judgment of the Apex Court in State of Karnataka Vs. K.Krishnan reported in JT 2000 (9) SC 356 and has rightly dismissed the application of the petitioner. Learned revisional court

I have considered the rival arguments advanced by both the parties and gone through the orders impugned. The Hon'ble Supreme Court in State of Karnataka Vs. K.Krishnan case (supra) has held that normally in the case of forest offence, it

should not be returned but if at all returned minimum bank guarantee should be taken. The vehicle in question is small vehicle and is not great in importance. It is lying in the police custody and will be ruined. Whether the forest produce were being transported with the knowledge of the petitioner or not, it can be decided only at the stage of trial. Looking to all facts and circumstances of the case, the instant misc. petition is allowed and it is ordered that Vehicle (Moped) No. RJ-09 4M 6179 shall be released on Supardginama to the petitioner provided he furnishes a personal bond in the sum of Rs.5,000/- with a surety of the like amount and on filing the bank guarantee in the sum of Rs. 500/- to the satisfaction of the learned Additional Chief Judicial Magistrate, Kapasan with the following conditions :-

1. That he will keep the said vehicle present in the court as and when required;
2. That he will not transfer or give the said vehicle to any other person nor he will part with the possession of the said vehicle;
3. That he will not change the shape or body of the said vehicle;
4. That he will submit the coloured photographs of the front, rear and side portion of the said vehicle before the Special Judge.

(KRISHAN KUMAR ACHARYA), J.